

**1993**

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**AIR POLLUTION (AMENDMENT) BILL 1993**

**EXPLANATORY MEMORANDUM**

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Bill Wood MLA**

**Minister for the Environment, Land and Planning**

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**OUTLINE**

The Air Pollution (Amendment) Bill 1992 (the Bill) amends certain provisions of the Air Pollution Act 1984 (the Principal Act). Amongst other things, the Principal Act establishes a regime for the control of air pollution. It provides for control of emissions from stationary sources but specifically excludes appliances used for heating or cooking on residential premises.

The Principal Act also establishes lead limits for petrol, which at the present time are set at 0.4 grams per litre of leaded petrol. In addition it makes it an offence to place any product which contains lead into vehicles designed to operate on unleaded petrol.

The Bill responds to concerns that have been raised about emissions from solid fuel burning appliances and the lead content of leaded petrol.

The Report of the Standing Committee on Conservation, Heritage and Environment, "Fuelwood Heating in the ACT" identified pollution from solid fuel appliances as a cause for concern. The Report recommended that emission controls for new appliances should be introduced.

In June 1993 the National Health and Medical Research Council reported that it was concerned about blood lead levels in children and recommended that action be taken to reduce the lead content of leaded petrol in Australia. The Lead Roundtable Conference held in Canberra in July 1993 agreed to pursue the reduction of lead in petrol.

The Bill:

brings solid fuel appliances on residential premises within the scope

of the Act;

- . introduces emission standards and associated controls for new domestic solid fuel appliances; and
- . enables new limits for lead content in leaded petrol introduced in NSW to be automatically adopted for leaded petrol sold in the Territory.

The opportunity is also taken to make the Principal Act gender neutral.

## **CLAUSE NOTES**

### **Clauses 1, 2 and 3 – Machinery Provisions**

Clauses 1, 2 and 3 are machinery provisions that specify the Short Title of the Act, provide for the commencement of the Act and identify the Principal Act being amended.

### **Clause 4 – Interpretation**

Clause 4 amends section 4 of the Principal Act which sets out definitions for terms used in the legislation. Clause 4 inserts definitions of the terms: (a) "Australian Standard 4013" (AS 4013) which relates to the method to be used for determining emissions from domestic solid fuel appliances; (b) "maximum lead concentration" which is the level set out in the NSW Clean Air Regulations 1964' (c) "sell" which includes exchange and offer for sale; and "solid fuel burning equipment" defined as fuel burning equipment designed to burn hard wood, soft wood or briquettes.

### **Clause 5 – Substitution**

Clause 5 repeals section 6 of the Principal Act which sets out matters exempt from the provisions of the Act. It substitutes a section which reinstates certain of these exemptions. The effect of this is to remove exemptions applying to a dwelling house and to fuel burning equipment on residential premises that is used solely for cooking, heating or cooling. Sections 6(1) and 6(2) retain exemptions applying to a railway locomotive, vessel, aircraft or motor vehicle (other than Part IIIA which refers to unleaded petrol). A new provisions that applies the Principal Act to residential premises subject to certain restrictions, is provided in Section 6(3). These restrictions relate to industrial appliances.

### **Clause 6 – Insertion**

Clause 6 inserts new sections into the Principal Act, that is 24A and 24B. Section

24A makes it an offence to sell solid fuel burning equipment, other than prescribed equipment, unless it complies with AS 4013, and is so certified by an authorised person or body [subsections (1) and (2)].

Subsection (3) of 24A requires that the certificate of compliance specifies that an authorised person or body has tested in accordance with the AS 4013 testing procedure an identical appliance and that the particulate emission factor does not exceed that specified in section 7 of AS 4013.

Subsection (4) of 24A specifies that the instrument authorising a person or body to issue certificates of compliance is a disallowance instrument.

Section 24B makes it an offence to tamper with solid fuel burning equipment [subsection (2)], or the attached plate which contains information in accordance with the requirements of section 10 of AS 4013 [subsection (1)]. Subsection (3) exempts from this offence the sale or installation of prescribed equipment.

#### **Clause 7 – Summary proceedings for indictable offences**

Clause 7 amends section 25 of the Principal Act which provides that a Magistrates Court may hear and determine proceedings for an offence referred to in subsections 23(3) and 24(2) of the Principal Act. Clause 7 provides that new subsections 24A(2) and 24B(4) are included in the reference in section 25.

#### **Clause 8 – Conduct of or agent of body corporate**

Clause 8 amends section 26 of the Principal Act which provides that, where a person engages in conduct on behalf of a body corporate, then the body corporate shall be deemed to have engaged in the conduct, unless the body corporate can establish that the conduct was not authorised or permitted and all due diligence was exercised by the body corporate to prevent the conduct. Clause 8 amends section 26 by including the new sections 24A and 24B in the references in section 26.

#### **Clause 9 – Prohibition of sale of leaded petrol unless low lead**

Clause 9 amends section 42BA of the Principal Act which specifies, among other things, the limit of lead levels in leaded petrol. In subsections 42BA(4), (5) and (6) this lead limit is set at 0.40 grams per litre. Clause 9 substitutes 'the maximum lead concentration' for '0.40 grams of lead'.

#### **Clause 10 – Type of petrol to be used**

Clause 10 amends paragraph 42E(1)(b) of the Principal Act which provides that, unless special circumstances apply, whereby a notice is in effect under subsections 42BA(1) or 42BB(1), a person shall not use leaded petrol that contains more than 0.40 grams of lead per litre. Clause 10 substitutes 'the maximum lead concentration' for '0.40 per litre'.

#### **Clause 11 – Further amendments**

Clause 11 amends sections of the Principal Act set out in the Schedule. These sections contain references to 'his' or 'her' and clause 11 makes these references gender neutral.

#### **Clause 12 – Application**

Clause 12 specifies that sections 24A and 24B of the amended Principal Act apply to solid fuel burning equipment manufactured or imported into the ACT only after the commencement of the amended Act.